

Reconsideration and Appeals

Current as of September 2011

Basis for OSJA's Decision:

Certain claimed expenses may have been denied. The basis and regulatory/legal authority for such denials will be explained within the Office of the Staff Judge Advocates's Memorandum to the Agency Approval Authority.

Often such denials are based on lack of regulatory/legal authority to reimburse an expense or lack of substantiation. Pursuant to JTR, Volume II, Chapter 5, Part P; 41 CFR Part 302; 5 USC 5724a; decisions of the Comptroller General, the General Services Administration Board of Contract Appeals, and the Civilian Board of Contract Appeals, the claimant bears the burden of proving/establishing that a claimed expense is reimbursable.

All expenses for which reimbursement is requested must be authorized by specific authority under regulation or law. If a specific authority does not provide for reimbursement, then a claimed expense must be denied. Further, even if an expense is otherwise reimbursable, it may only be reimbursed if it is actually paid by the claimant and may only be reimbursed up to but not exceeding specific amounts stated in regulation and law (such as a 1% loan origination fee) or, in the absence of a specific limitation, to the amount customarily paid in the residence locality in which a purchase or sale was made.

Claimants Desiring to File for Reconsideration:

If a claimant disagrees with the decision contained in the memorandum to the Approval Authority, they may request that it be reconsidered. A request for reconsideration must be submitted to and endorsed by the Approval Authority using the enclosed *Fort Sam Houston Reconsideration Request Form* (Appendix A) within 15 calendar days of the Approval Authority's receipt of the OSJA's Memorandum to Approval Authority (an extension of this requirement may be granted based on hardship and with the endorsement of the Approval Authority). Requests must be accompanied by a *Fort Sam Houston Itemized Reconsideration Worksheet-DD Form 1705 Claims Form* (Appendix B) and specify why the claimant believes a denied expense should be reimbursed, cite the supporting regulatory/legal authority, and be accompanied by the appropriate documentation. Reconsideration requests failing to meet this requirement may be denied on this basis alone.

Processing:

Request will reenter the processing queue and will be processed only after initial claims and other reconsideration requests already in the processing queue have been adjudicated. Approval Authorities will be notified by memorandum regarding the OSJA's decision with an accompanying memorandum to the Approval Authority.

Appeals:

Claimants who disagree with the decision contained in the memorandum to DFAS and choose not to request reconsideration, or who have filed a request for reconsideration and are not satisfied with the response, may file an appeal with the Civilian Board of Contract Appeals (CBCA). For more information on the content of the appeal and the appeal process see: <http://www.cbca.gsa.gov>.

FSH Reconsideration Request Form

Purpose: To Request Reconsideration Review of Civilian Employee Real Estate Expenses Associated with PCS move to or from the San Antonio Area (all three parts must be completed)

PART I***Employee Certification***

I understand that my signature below indicates that the information submitted in support of this request for reconsideration is both true and accurate and that this review will be returned directly to the Approval Authority listed below for further processing in accordance with my activity's processing policies for real estate reimbursement claims. I understand that I bear the burden of proving/establishing that the claimed expense(s) are reimbursable and that all expenses for which reimbursement is requested must be authorized by specific authority under regulation or law and customarily paid in the residence locality in which a purchase or sale was made.

I agree to provide updated contact information to the Office of the Staff Judge Advocate should it change from the information contained below. I understand that I may be contacted by the Office of the Staff Judge Advocate after submission of my claim for additional information and my failure to provide the requesting information in a timely manner may result in delay or complete denial of my reconsideration. I understand that submission of a false or fraudulent claim is a crime punishable under applicable Federal law and may form the basis of administrative disciplinary action up to and including removal from Federal Service. I believe that I am entitled to be reimbursed for the expenses claimed and have provided legal/regulatory authority and adequate substantiation to support my reconsideration request.

Employee Signature

Date

Print Name

Organization

Telephone Number:Email Address:

Approval Authority Checklist**PART II**

The approval authority will ensure LEGIBLE scanned copies of the following documents are included in the review packet in the following order prior to forwarding the packet to the Office of the Staff Judge Advocate for Review by placing his or her initials in each of the following blocks (these documents will not be returned):

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Fort Sam Houston Reconsideration Request Form (signed by claimant and approval authority)

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Fort Sam Houston Itemized Reconsideration Worksheet-DD Form 1705 Claims Form

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Supporting Documentation (as needed)

PART III

Pursuant to JTR, Volume II, Chapter 5, Part P, Paragraph C5759C, *Review and Approval of Reasonable Charges*, an official designated by the commanding officer of an activity must review the expenses claimed and the supporting documentation to determine if the expense(s) claimed are reasonable in amount and customarily paid by the seller or buyer in the locality where the property is located.

As the approval authority (JTR, Volume II, Chapter 5, Part P, Paragraph C5759D) of the employee listed above, I request that the OSJA perform the Paragraph C5759C review for the above listed employee. I will submit this request by scanning all documents necessary for the review (PDF document) and emailing them to the Office of the Staff Judge Advocate at usarmy.jbsa.asa.mbx.rersja@mail.mil with the Subject Heading: *Real Estate Claim-(Claimant First and Last Name, CLAIMS #)*. I understand that your review will be returned to me via email and it will be my responsibility as the approval authority to ensure the claim is forwarded to DFAS in compliance with the *Pamphlet for Civilian Permanent Duty Travel (PDT)* DFAS-CO 1404.1-PH (January 2010 ed.) <http://www.dfas.mil/dfas/pcstravel.html> under Additional Resources, Civilian PCS Handbook and the *Approval Authority Checklist (Approving Official)* available in the PCS Section of the DFAS website: <http://www.dfas.mil/dfas/pcstravel/checklists.html>

Approval Authority Certification

I have familiarized myself with the most recent version of the *Fort Sam Houston Area Real Estate Reimbursement Claim Guide*, reviewed the documents submitted by the claimant in support of this review, and completed the attached checklist required for submission. I hereby certify all requirements for submission to the OSJA have been met to include the employee's signature above.

Approval Authority Signature

Date

Print Name

Organization

Telephone Number:

Email Address:

APPENDIX B**Fort Sam Houston Itemized Reconsideration Worksheet-DD Form 1705 Claims Form**

Italicized example contained in row one of worksheet

Denied Expense	Line # HUD-1	\$ Amount Claimed	Basis for reconsideration	Regulatory/Legal Authority	List of Substantiating Documents
<i>Loan Processing Fee</i>	<i>803</i>	<i>500.00</i>	<i>Initially denied because I failed to provide information to CSD regarding why this fee was charged. Letter from lender attached shows this fee was for the administrative costs of processing the loan and did not contain prepaid interest, points, or a mortgage discount. I did not pay a 1% loan origination fee.</i>	<i>JTR C5756-A4a(2) GSBCA 16815-Relo (31 August 2006)</i>	<i>Letter from lender.</i>

Attach reference sheets as needed